

Serial No. 10/642,860
UTILITY PATENT

Amend in Resp to Off Act mailed on Dec. 28, 2004
B&D No. TN-1631C

REMARKS

Applicants have amended Claim 54. Currently in the above-identified application therefore are Claims 48-65.

The Examiner objected to the specification for not having the most up-to-date status of the previous related application. In response, Applicants have updated the specification.

The Examiner has rejected Claims 54-57 under 35 USC § 112, second paragraph, for indefiniteness. In particular, the Examiner noted that it was unclear what the phrase "first and second" in Claim 54 referred to. In response, Applicants have amended Claim 54 to read --first and second buttons--.

The Examiner rejected Claims 48-49, 58, 60-62 and 64-65 under 35 USC § 102(b) as being anticipated by US 5,212,021 ("Smith"). This rejection is respectfully traversed.

Claim 48 calls for a battery pack comprising a housing comprising a first portion having a first floor and first and second walls connected to the first floor, and a second portion having a second floor and third and fourth walls connected to the second floor, where the first and second floors are non-coplanar, a plurality of cells disposed within the housing, at least two terminals electrically connected to the cells, and a first latching mechanism disposed on the housing for latching the battery pack to a cordless device, said first latching mechanism comprising a first latch and a first button connected to the first latch for moving the first latch between unlatching and latching positions.

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Assuming for the sake of argument that the Smith battery pack has a housing with the first and second portions as claimed, it would still lack the claimed latching mechanism. The Smith pack only has recesses 210, 212, 402, 404 and interlocking legs 214, 216, 406, 408 (Smith, col. 6, lns. 13-17) as a locking mechanism, which the Examiner has identified to be the claimed latching mechanism. Smith does not disclose a first latch and a button connected to the first latch, both elements being disposed on the battery pack housing.

By contradistinction, Claim 48 requires a battery pack with "a first latching mechanism disposed on the housing for latching the battery pack to a cordless device, said first latching mechanism comprising a first latch and a first button connected to the first latch for moving the first latch between unlatching and latching positions." Since Smith does not disclose these elements, it cannot anticipate Claim 48 and its dependent claims.

The Examiner rejected Claims 48-65 under the doctrine of obviousness-type double patenting as being unpatentable over Claims 1-16 of US Patent No. 6,641,950. In response, Applicants promise to file a terminal disclaimer upon allowance of the claims, rendering the present rejection moot.

Applicants believe the application to be in condition for formal allowance. Accordingly, allowance of Claims 48-65 is respectfully requested.

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The Commissioner is authorized to charge payment of a two-month extension fee (\$450.00), as well as any other fees due in processing this amendment, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,



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